



सत्यमेव जयते

## आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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टेलिफैक्स 07926305136



DIN-20220364SW0000818843

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/411/2022 -APPEAL / 7167 - 23
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-158/2021-22**  
दिनांक Date : **29-03-2022** जारी करने की तारीख Date of Issue : **29-03-2022**  
**श्री मिहिर रायका** अपर आयुक्त (अपील) द्वारा पारित  
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZA2401212081511 DT. 28.01.2021** issued by  
Superintendent, Range II, Division III (Vatva II) Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**Shri Nagjibhai Bharwad of M/s. Dishant Enterprises, Group 3157,  
Vonibha Nagar, Vinzol, Daskroi, Ahmedabad-382445**

(A)	इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है। Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.
(i)	National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the cases where one of the issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017.
(ii)	State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017
(iii)	Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 110 of CGST Rules, 2017 and shall be accompanied with a fee of Rs. One Thousand for every Rs. One Lakh of Tax or Input Tax Credit involved or the difference in Tax or Input Tax Credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of Rs. Twenty-Five Thousand.
(B)	Appeal under Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be filed along with relevant documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST APL-05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied by a copy of the order appealed against within seven days of filing FORM GST APL-05 online.
(i)	Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying - (i) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> of the remaining amount of Tax in dispute, in addition to the amount paid under Section 107(6) of CGST Act, 2017, arising from the said order, in relation to which the appeal has been filed.
(ii)	The Central Goods & Service Tax ( Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019 has provided that the appeal to tribunal can be made within three months from the date of communication of Order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
(C)	उच्च अपीलीय प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> को देख सकते हैं। For elaborate, detailed and latest provisions relating to filing of appeal to the appellate authority, the appellant may refer to the website <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .



## ORDER IN APPEAL

Shri Nagjibhai Bharwad of M/s.Dishant Enterprise, Group 3157, Vonibha Nagar, Vinzol, Daskroi, Ahmedabad 382 445 (hereinafter referred to as 'the appellant) has filed the present appeal on dated. 1-12-2021 against Order No.ZA2401212081511 dated 28-1-2021 (hereinafter referred to as the impugned order ) passed by the Superintendent, Range II, Division III (Vatva II), Ahmedabad South (hereinafter referred to as 'the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant's GSTIN 24BGVPB4143H1ZG was cancelled by the adjudicating authority with effect from 28-1-2021 on the ground of non filing of returns for a continuous period of six months. Being aggrieved the appellant filed the present appeal on the ground that due to Covid 19 situation they had not filed GST return timely because that GST number has been cancelled ; they had also not filed revocation application and hence requested to admit their appeal.

3. Personal hearing was held on dated 8-3-2022. Shri Yogesh Panchal, authorized representative appeared on behalf of the appellant on virtual mode. He stated that they have nothing more to add to their written submission till date.

4. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. At the outset, I find that the impugned order was communicated to the appellant on dated 28-1-2021 and present appeal was filed online on 1-12-2021 ie after a period of 11 months and hence the appeal was filed beyond the time limit prescribed under Section 107 of the Act. However as per Hon'ble Supreme Court's Order dated 23-3-2020 and Order dated 27-4-2021, extending the time limit for filing of appeal, I hold that the present appeal is not hit by time limitation factor.

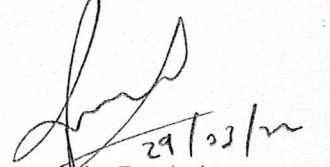
5. In the subject case, the GSTIN registration of the appellant was cancelled on the ground of non filing of returns for a continuous period of six months. During appeal the appellant has submitted copy of GSTR 3B return filed for six month period till January 2021 and also submitted copy of challans for late fees. I have verified from the GST portal that the appellant has filed GSTR3B and GSTR1 return till January 2021. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns under Section 29 (2) of CGST Act, 2017 the registered person need to file an application for revocation of cancellation of registration with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case the appellant has admitted that they had not filed any application for revocation of cancellation of their registration within the stipulated time limit of 90 days prescribed under Rule 23 of CGST Rules, 2017. However, since the appellant has sought relief in appeal for restoration of their registration after complying with the requirement prescribed under proviso to Rule 23 of CGST Rules, 2017, I find it appropriate to allow this appeal for restoration of their GST registration. Therefore, I order that the appropriate authority



may consider revocation of cancellation of their registration subject to the provisions of CGST Act and Rules made there under. Accordingly I set aside the impugned order and allow the appeal filed by the appellant.

अपील कर्थाद्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

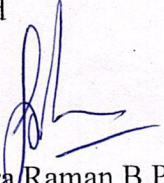
6. The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

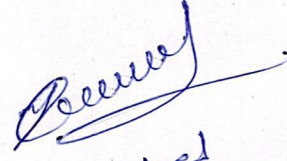
Attested

  
(Sankara Raman B.P.)  
Superintendent  
Central Tax (Appeals),  
Ahmedabad



To,

Shri Nagjibhai Bharwad  
of M/s.Dishant Enterprise,  
Group 3157, Vonibha Nagar,  
Vinzol, Daskroi,  
Ahmedabad 382 445

  
Received  
29/03/22

Copy to :

- 1) The Principal Chief Commissioner, Central tax, Ahmedabad Zone
- 2) The Commissioner, CGST & Central Excise (Appeals), Ahmedabad
- 3) The Commissioner, CGST, Ahmedabad South
- 4) The Assistant Commissioner, CGST, Division III (Vatva II), Ahmedabad South.
- 5) The Superintendent, CGST, Range II Division III (Vatva II), Ahmedabad South
- 6) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 7) Guard File
- 8) PA file

